

MEMO ENDORSED

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October 16, 2007

Honorable Judge Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007
VIA FAX 212-805-6326

RE: Gallo v. Alitalia
07-6418 (CM) (HBP)

Dear Judge McMahon:

Please note I represent the Plaintiff in the above action.

We recently received Defendant's Answer to the complaint, last month, on September 18, 2007. We just had our initial conference before your Honor this past Friday, October 12, 2007 and the Case Management plan was signed yesterday on October 15, 2007.

The case management plan states that no pleading may be amended without leave of court. Plaintiff respectfully requests permission to now amend his complaint. Plaintiff had already filed an Amended Complaint in response to Defendants' motion to dismiss. In our amended complaint, we allege discriminatory acts after an alleged release dated September 15, 2005. At this point, we wish to amend the complaint to include acts before September 15, 2005 since the Release is void as it, *inter alia*, did not contain the required language under the Older Workers Benefit Protection Act. No discovery has been exchanged by the Defendants and there is no prejudice to the Defendants.

Thank you for your consideration and time.

Respectfully submitted,

AKIN & SMITH, LLC

Derek T. Smith

CC: Attn: Charles Caranicas, Esq. Vedder, Price, Kaufman & Kammholz, P.C
VIA FAX 212-407-7799

*You have to make a motion
sorry*

Colleen McMahon
10/18/07